

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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:  
METROPOLITAN LIFE INSURANCE  
COMPANY,

Plaintiff,

-against-

KATHRYN CLAIRE CAMPBELL,  
CATHERINE LEE WERNER and  
SHARON CAMPBELL,

Defendants.  
:  
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**DECLARATION OF SEAN T.  
O'LEARY IN SUPPORT OF  
MOTION TO DISMISS OR  
STAY ACTION**

07 CV 7310 (GBD)

**ECF CASE**

SEAN T. O'LEARY, being duly sworn, deposes and says:

1. I am an attorney associated with the law firm of Wormser, Kiely, Galef & Jacobs LLP, attorneys for Defendants, Kathryn Claire Campbell and Sharon Campbell (the "Defendants"). I am admitted to practice in the United States District Court for the Southern District of New York, and make this Declaration in support of Defendants' Motion to dismiss the Cross-Claim of Defendant, Catherine Lee Werner ("Werner"), or, alternatively, stay Werner's Cross-Claim pending resolution of the previously-filed and parallel action pending in Nevada.

2. On September 7, 2007, Defendants moved this Court to dismiss the Complaint of Plaintiff, Metropolitan Life Insurance Company (the "Plaintiff"), or to stay this action pending resolution of the previously-filed and parallel action pending in Nevada (the "Motion to Dismiss the Complaint"). As provided in the Notice of the Motion to Dismiss the Complaint, any and all opposition papers were due to be filed and served on Defendants' attorneys on or before

September 21, 2007.

3. On September 17, 2007, Plaintiff, through its attorneys, requested an extension of time from Defendants to respond to the Motion to Dismiss the Complaint until October 22, 2007. On September 17, 2007, Defendants, through their attorneys, consented to this request for an extension of time.

4. On or about September 19, 2007, Plaintiff's attorneys sent a letter to Your Honor, via facsimile, requesting an extension of time to respond to the Motion to Dismiss the Complaint until October 22, 2007. On September 20, 2007, Your Honor granted this request for an extension of time.

5. On or about October 16, 2007, Plaintiff, through its attorneys, requested a second extension of time from Defendants to respond to the Motion to Dismiss the Complaint until November 12, 2007. On October 16, 2007, Defendants, through their attorneys, consented to this request for a second extension of time.

6. On or about October 16, 2007, Plaintiff's attorneys sent a letter to Your Honor, via facsimile, requesting a second extension of time to respond to the Motion to Dismiss the Complaint until November 12, 2007. On October 29, 2007, Your Honor granted this request for a second extension of time.

7. On November 2, 2007, Defendant, Catherine Lee Werner ("Werner"), filed an Answer to Plaintiff's Complaint. (In response to the request of Werner's attorneys, Your Honor had extended Werner's time to respond to Plaintiff's Complaint until November 6, 2007.)

8. Werner's Answer included a Cross-Claim against Defendants.

9. For all of the same reasons adduced in the previously-filed papers in support of

the Motion to Dismiss the Complaint – including the Declaration of Sean T. O’Leary dated September 7, 2007 (Document No. 5 on this Court’s docket for this action and annexed hereto as “Exhibit A”), the Affidavit of Barry L. Breslow sworn to on September 7, 2007 (Document No. 6 on this Court’s docket for this action and annexed hereto as “Exhibit B”), the Defendants’ Memorandum of Law dated September 7, 2007 (Document No. 7 on this Court’s docket for this action and annexed hereto as “Exhibit C”), all of which, for purposes of efficiency and judicial economy, are hereby incorporated into this Motion<sup>1</sup> – this Court should dismiss Werner’s Cross-Claim against Defendants.

10. In the alternative, and for the same reasons adduced in the foregoing papers in support of Defendants’ Motion to Dismiss the Complaint, this Court should stay Werner’s Cross-Claim against Defendants.

WHEREFORE, Defendants request that this Court dismiss the Cross-Claim of the Defendant, Catherine Lee Werner, or, alternatively, stay said Cross-Claim, and/or direct such other and further relief as the Court deems just and proper.

Dated: New York, New York  
November 16, 2007

/S/  
Sean T. O’Leary (SO-4542)

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<sup>1</sup>Paragraph 22 of the Affidavit of Barry L. Breslow provided that, in conversation with Werner’s counsel, Mr. Breslow understood that Werner would not oppose the Motion to Dismiss the Complaint because she preferred to litigate this matter in Nevada. That understanding may no longer be accurate. Thus, the Defendants do not incorporate that statement into this Motion.